

**IN THE COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE**

**ORDER AMENDING RULE 72.3  
OF THE COURT OF COMMON PLEAS  
RULES OF CIVIL PROCEDURE**

This 29th day of November 2004

- 1) Court of Common Pleas Civil Rule 72.3 is amended by including the material underlined as follows:

**Rule 72.3. Appeals de novo.**

(a) *Appeals de novo.* When an appeal de novo is permitted by law, an action is commenced in the Court of Common Pleas by the appellant filing with the Clerk of the Court a notice of appeal within the time prescribed by statute for the filing of an appeal. If no time is prescribed by statute, the notice of appeal shall be filed within 15 days from the entry of the final judgment, order, or disposition from which an appeal is permitted by law. When the appellant is the party having the duty of filing the complaint or other first pleading on appeal, the appellant shall file such pleading with the notice of appeal and a praecipe. When the appellee is the party having the duty of filing the complaint or other first pleading on appeal, the appellee shall serve a copy of such pleading within 20 days after service of the process on appeal, and thereafter the pleading shall proceed as in other actions.

(b) *Record; stay.* The appellant shall file a certified copy of the record of the proceedings below, not including the evidence, within 10 days of the filing of the notice of appeal. Process shall not issue until the appellant has filed the record. There shall be no stay of execution or other proceedings below unless ordered by this court pursuant to Rule 62(c).

(c) *Jurisdiction.* An appeal to this court that fails to join the identical parties and raise the same issues that were before the court below shall result in a dismissal on jurisdictional grounds.<sup>1</sup>

- (2) This amendment shall be effective immediately.

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<sup>1</sup> This rule amendment is promulgated pursuant to *Fossett & Strock v. DALCO Construction*, 2004 Del. Supr. LEXIS 362, C.A. No. 607, 2003 (Decided August 20, 2004)

Chief Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge